

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application)	
of GIGLIOTTI GROUP, INC. dba KADCOM)	UTILITY DIVISION
and U S WEST Communications, Inc., Pursuant)	
to Section 252(e) of the Telecommunications Act)	DOCKET NO. D97.3.50
of 1996 for Approval of their Resale Agreement.)	ORDER NO. 5983a

ORDER APPROVING FIRST AMENDMENT TO RESALE AGREEMENT

Gigliotti Group, Inc. dba KADCOM (KADCOM) and U S WEST Communications, Inc. (U S WEST) negotiated a resale agreement pursuant to § 251 of the Telecommunications Act of 1996 (1996 Act)¹ and filed the agreement for approval with the Montana Public Service Commission (Commission). Pursuant to 47 U.S.C. § 252, the Commission approved the "Agreement for Service Resale" in Order No. 5983 on May 28, 1997, with the exception of one contract term.

The Commission rejected the third paragraph of Section IV.C.2 on page seven of the Agreement because it was not consistent with the public interest, convenience, and necessity. This provision raised questions concerning consumer privacy and would have restricted the transfer of customers between the parties if a subscriber's account was in arrears. Further, there was no definition of the term "arrears" included in the contract.

The Commission also required corrections to the Agreement to conform to Montana law. These corrections related to the incorrect use of the term "certified reseller." Montana law does not permit certification of telecommunications providers; rather, it provides for the registration of all telecommunications providers in § 69-3-805, MCA.

U S WEST and KADCOM executed their "First Amendment to Agreement for Service Resale" dated July 24, 1997 and filed the amendment with the Commission on December 12,

¹ Pub. L. No. 104-104, 110 Stat. 56 (*amending the Telecommunications Act of 1934 and to be codified as amended in scattered sections of 47 U.S.C.*).

1997. The amendment removes the term "Certified Reseller" from the first sentence of the Agreement, replaces the definition of "reseller" in Section III.G to remove references to certification, and deletes Section IV.C.2 which restricted the transfer of subscribers between the parties. The Commission concludes that the amendment complies with Order No. 5983 in this Docket.

THEREFORE, based on the foregoing, IT IS ORDERED that the First Amendment to Agreement for Service Resale between U S WEST and KADCOM is APPROVED.

DONE AND DATED this 17th day of February, 1998, by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.